

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

PATRICK BARELA, both individually and as
Personal representative on behalf of The Estate of
Martha Barela,

Plaintiff,

v.

Case No. _____

INTEL CORPORATION and MINNESOTA LIFE
INSURANCE COMPANY,

Defendants.

NOTICE OF REMOVAL

Defendants Minnesota Life Insurance Company and Intel Corporation remove this action from the Second Judicial District Court, Bernalillo County, New Mexico in accordance with 28 U.S.C. §§ 1331, 1441, and 1446; 29 U.S.C. § 1132(e) and (f); and D.N.M. LR-Civ. 81.1.

SUBJECT MATTER JURISDICTION UNDER ERISA

1. The plaintiff alleges that the action arises under the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, *et seq.* (“ERISA”). (Compl. at ¶ 6, 28, 29.)

2. Specifically, the case involves a dispute over accidental death and dismemberment insurance benefits. (Compl. at ¶ 9, 10.)

3. Intel established and maintained a plan of accidental death and dismemberment insurance for the benefit of its employees. At relevant times, Intel funded its accidental death and dismemberment plan via a policy of accidental death and dismemberment insurance issued by Minnesota Life Insurance Company to Intel Corporation. (*See Ex. A*, Policy No. 34113-G.)

4. At relevant times, the plaintiff's decedent was employed by Intel and participated in the accidental death and dismemberment plan. (Compl. at ¶¶ 9, 10, 13, 14.)

5. The plaintiff submitted a claim for benefits under the plan, which was denied. (Compl. at ¶¶ 15, 17.)

6. ERISA provides the plaintiff's exclusive remedy. *See* 29 U.S.C. § 1132(a)(1)(B). ERISA preempts any state law claim that relates to an ERISA-governed benefit plan. *See* 29 U.S.C. § 1144(a); *see also* *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 54-57 (1987).

7. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e).

THIS REMOVAL IS TIMELY

8. The plaintiff filed the Complaint in state court on May 9, 2016.

9. The New Mexico State Superintendent of Insurance forwarded a copy of the Summons and Complaint to Minnesota Life on May 23, 2016 in accordance with NMSA § 59A-5-31 and 32.

10. Intel was served, via its statutory agent, by certified mail on May 16, 2016.

11. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because 30 days have not expired since the Summons and Complaint were served.

THE DEFENDANTS HAVE MET ALL OTHER REQUIREMENTS FOR REMOVAL

12. The defendants have satisfied the other requirements for removal under 28 U.S.C. § 1446 and D.N.M. LR-Civ. 81.1.

13. The defendants have served a copy of this notice upon the plaintiff.

14. All named defendants have joined in this removal.

15. The defendants have this date filed a copy of this Notice of Removal with the Clerk of the Second Judicial District Court as required by 28 U.S.C. § 1446(d). *See Ex. B.*

16. Pursuant to 28 U.S.C. § 1446(a) and D.N.M. LR-Civ 81.1, the defendants have attached copies of all pleadings and other documents that were previously filed with the Second Judicial District Court. *See Ex. C.*

Accordingly, defendants Minnesota Life Insurance Company and Intel Corporation remove the above entitled action from the Second Judicial District Court, Bernalillo County, New Mexico to the United States District Court for the District of New Mexico.

DATED: June 14, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

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